

**THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

Consumer Financial Protection Bureau,	)	
	)	
<i>Plaintiff,</i>	)	Civil Action No. 3:CV-17-00101
	)	(Hon. Robert D. Mariani)
v.	)	
	)	
Navient Corporation, <i>et al.</i> ,	)	
	)	
<i>Defendants.</i>	)	

**DEFENDANTS’ OBJECTIONS TO SPECIAL MASTER REPORT #5**

Defendants appreciate the opportunity to review Special Master Report #5, and to provide comments for consideration before the Report is finalized. As the Court knows, Defendants do not have access to the documents that were reviewed *in camera*, and thus are constrained in their ability to assess the deliberative process privilege claims at issue in the CFPB’s February 11, 2019 production to the Special Master. Defendants respectfully request that the Court consider the following.

Category 72 of the CFPB’s log contains documents related to the CFPB’s Education Loan Examination Procedures, including drafts and emails exchanged with the Department of Education (“ED”). *See* Doc. 279 at 7. Category 79 of the CFPB’s privilege log concerns documents relating to the July 20, 2016

Memorandum from ED Under Secretary Ted Mitchell to James Runcie, Chief Operating Office of Federal Student Aid (“FSA”), including exchanges among ED, the CFPB, and the U.S. Treasury Department. *See* Doc. 279 at 8. Defendants have no reason to question the Court’s conclusion that such exchanges were deliberative. Rather, Defendants request that the Court to consider whether the ED communications at issue in Categories 72 and 79 require additional consideration for the same reasons articulated in Defendants’ objections to Special Master Report #3. Doc. 277 at 3–8. To the extent ED revised or commented on the draft Examination Procedures or draft Memorandum in a manner consistent with ED’s expectations under the contract, the documents would be relevant to the reasonableness of actions Defendants took while under contract with ED to implement the federal government’s student loan program. Defendants should be permitted to present such evidence.

Dated: May 6, 2019

Respectfully submitted,

/s/ Jonathan E. Paikin

Jonathan E. Paikin (DC 466445) (*pro hac vice*)

Daniel P. Kearney (DC 977148) (*pro hac vice*)

Karin Dryhurst (DC 1034290) (*pro hac vice*)

Wilmer Cutler Pickering

Hale and Dorr LLP

1875 Pennsylvania Avenue, NW

Washington, DC 20006

jonathan.paikin@wilmerhale.com

daniel.kearney@wilmerhale.com  
karin.dryhurst@wilmerhale.com  
Tel: 202-663-6000  
Fax: 202-663-6363

Daniel T. Brier (PA 52348)  
Myers Brier & Kelly, LLP  
425 Spruce Street, Suite 200  
Scranton, PA 18503  
dbrier@mbklaw.com  
Tel: 570-342-6100  
Fax: 570-342-6147

*Counsel for Navient Corporation, Navient  
Solutions, LLC, and Pioneer Credit Recovery,  
Inc.*

## **CERTIFICATE OF SERVICE**

I hereby certify that on May 6, 2019, I filed the foregoing document with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record who are deemed to have consented to electronic service.

/s/ Karin Dryhurst

Karin Dryhurst (DC 1034290) (*pro hac vice*)

Wilmer Cutler Pickering

Hale and Dorr LLP

1875 Pennsylvania Avenue, NW

Washington, DC 20006

karin.dryhurst@wilmerhale.com

Tel: 202-663-6000

Fax: 202-663-6363